

REMARKS

Restriction is only proper if the identified groups are independent or patentably distinct (MPEP § 803). The burden is on the Office to provide reasons and/or examples to support its conclusion that the identified groups are independent or distinct.

The Office has characterized the relationship between Groups I-III and VIII as unrelated. The Office has cited MPEP § 806.04, MPEP § 808.1 and asserts that Groups I-III and VIII are not disclosed as capable of use together, and that they have different modes of operation, different functions, or different effects. The Office suggests that the groups differ structurally, functionally, and chemically. The Office has not explain how the groups are structurally, functionally, and chemically different. No example has been provided.

The Office has characterized the relationship between Groups IV-VII and IX as unrelated. Again citing MPEP § 806.04 and MPEP § 808.01, the Office asserts that Groups IV-VII and IX differ in that they are different methods used for distinct purposes that have different effects and outcomes. The Office gives the example that Group V differs from Group VI because one group determines RNA levels, while the other determines protein expression levels. These are examples of limitations in the claims and do not explain how these groups are used for distinct purposes that have different effects and outcomes.

The Office has characterized the relationship between Groups I-III, VIII and IV-VII, IX as related as product and process of use. Citing MPEP § 806.05(h), the Office asserts that Groups I-III and VIII are materially different processes of using the product of Groups IV-VII. However, no explanation has been offered to explain why Groups I-III and VIII are materially different processes of using the product of Groups IV-VII.

Election of species is for search purpose only. If no search results are found for elected species, the search should be continued. Furthermore, the burden rests upon the Office to demonstrate that species are patentably distinct.

The Office has indicated that upon allowance of a generic claim, Applicants are entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim. However, the Office has not indicated which claims are generic, pursuant to MPEP § 809.02(a). Applicants request clarification.

Applicants submit that the Office has not met the necessary burden in order to sustain the Restriction Requirement. Withdrawal is respectfully requested.

If the Examiner should have any questions concerning this Response, please contact the undersigned.

Respectfully submitted,



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